



What you should know about SICK LEAVE in Westchester County

Workers in Westchester County now have the right to earn and take sick leave to care for themselves or a family member. Starting July 10, 2019, all employees who work in Westchester County are entitled to earn sick time while they work, and they cannot be fired for using it.

What can I use my sick leave time for?

You can use sick leave:

- To take care of your own mental or physical health, such as to stay home when you are sick or to go to a doctor's appointment.
- To take care of the mental or physical health of a "family member" which means your child, spouse, parent, sibling, grandchild or grandparent; and also the child or parent of a current or ex-boyfriend, girlfriend, or spouse; or some other child that you take care of in a way similar to that of a parent.
- To stay home if your workplace or your child's school (or the school of a child you take care of) is closed because of a public health emergency.¹

You *cannot* use sick leave:

- For bereavement leave (to deal with the consequences of a loved one's death).
- For maternity/ paternity leave (after your baby is born, assuming everyone is healthy).
- To take a day off to do something unrelated to sickness.

How much sick leave do I have?

Under the new law, employees in Westchester start accruing sick time on July 10, 2019 (or, if your start date is later than that, on the day that you start). Generally, employees are entitled to earn 1 hour of sick leave for every 30 hours you work.

Domestic workers, including nannies, housekeepers, and elder care providers, earn 1 hour of sick leave for every 7 days worked. This is *in addition* to the three paid "days of rest" per year that are provided for in New York State's Domestic Workers' Bill of Rights starting in year two of employment in that household.

When you are first hired, an employer can require you to wait 90 days before *using* your sick time, but you will still accrue sick leave hours during that time period. After you have worked for your employer for at least 90 days, you are entitled to start using the paid sick time that has been accrued.

Your employer may limit the amount of sick time you can use in a given year to 40 hours, no matter how much you accrue. You can "carry over" the hours in your sick leave bank from one year to the next, but your employer can still limit your use of sick time to 40 hours a year.

The law does not limit how much sick time an employer may *choose* to give its employees; it only sets a floor. Your employer may choose to offer more paid sick time per year or allow you to earn or use it more quickly. **You have the right to ask your employer what the sick leave policy is without retaliation.**

¹ Starting October 30, 2019 you can also take up to 40 hours per year of paid time off to ensure your safety or the safety of a family member who has been the victim of domestic violence, though this is covered under a separate law and does not come out of your sick leave time.

How do I use my sick leave?

Generally, you use sick leave by telling your employer that you cannot come to work and that you will be using your sick time. The law requires that you provide “reasonable” notice when you will be using sick time, so you should notify your employer in advance about doctor’s appointments or other planned leave. The law also allows employers to require you to use a minimum of four hours of sick leave at a time. Employers may have specific procedures for how employees must call in sick, which you should attempt to follow. Your employer cannot require you to provide details of your or your family member’s illness. They may not require you to provide a doctor’s note unless you take more than three consecutive days of sick time, but they can require a doctor’s note for leave of more than three consecutive days.

Does my employer have to pay me when I use my sick leave, even though I’m not working?

If your employer has 5 or more employees in Westchester County, your employer must pay you your regularly hourly wage when you use sick time.

If your employer has 4 or fewer employees in Westchester County, your employer must allow you to earn and use sick time but is not required by law to pay you for that time.

Domestic workers are entitled to paid sick leave at their regularly rate of pay no matter how many employees their employer has.

“Independent contractors” are not entitled to paid sick leave. You may be considered an employee and protected by the law *even if* your employer calls you an independent contractor or pays you off the books.

Am I entitled to sick leave if I’m undocumented?

Yes. The law applies to all workers in Westchester County, no matter their immigration status. If your employer refuses to pay you for your sick time, or threatens to fire you or call ICE if you use your sick time, then they are breaking the law.

What if my employer makes it hard for me to take sick time or punishes me for taking sick time?

It is illegal for your employer to discourage you from taking sick leave by threatening to fire you, suspend you, or reduce your hours, for example. If you do use your sick time, your employer may not take any such actions in retaliation. Additionally, your employer cannot require you to find a replacement as a condition of using your sick leave. Calling immigration officials or threatening to do so because you use sick time also constitutes retaliation and is against the law.

What should I do if I think my employer is breaking the law?

If your employer does not pay you for your sick time (if you’re entitled to paid sick leave), prevents you from taking it, or punishes you when you do take it, you should contact [Make the Road New York](#) at (914) 948-8466 and ask to speak to someone in the Workplace Justice Team. You can also file a complaint with the Westchester County Department of Consumer Protection by calling (914) 995-2155.